

**BEFORE THE TENNESSEE REGULATORY AUTHORITY AT
NASHVILLE, TENNESSEE**

September 20, 2002

IN RE:

**PETITION OF MCIMETRO ACCESS
TRANSMISSION SERVICES, LLC AND
BROOKS FIBER COMMUNICATIONS
OF TENNESSEE, INC. FOR
ARBITRATION OF CERTAIN TERMS
AND CONDITIONS OF PROPOSED
AGREEMENT WITH BELL SOUTH
TELECOMMUNICATIONS, INC.
CONCERNING INTERCONNECTION
AND RESALE UNDER THE
TELECOMMUNICATIONS ACT OF 1996**

DOCKET NO. 00-00309

**ORDER APPROVING
INTERCONNECTION AGREEMENT**

This matter came before Chairman Sara Kyle, Director Pat Miller, and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on August 19, 2002 to consider, pursuant to 47 U.S.C. § 252, the negotiated interconnection agreement (the "Agreement") between MCImetro Access Transmission Services, LLC and Brooks Fiber Communications of Tennessee, Inc. (collectively "WorldCom") and BellSouth Telecommunications, Inc. ("BellSouth").

Background

On April 14, 2000, WorldCom filed its petition for arbitration with the Authority, pursuant to Section 252(b) of the Federal Telecommunications Act of 1996 ("the Act"). *See* 47 U.S.C. § 252(b). In its petition, WorldCom requested that the Authority arbitrate an interconnection agreement between WorldCom and BellSouth.

Under Sections 251 and 252 of the Act, incumbent local exchange carriers and competing local exchange carriers have a duty to negotiate in good faith the terms and conditions of agreements regarding facilities access, interconnection, resale of services, and other arrangements contemplated under these sections. If the parties are unable to reach a voluntary agreement, either party may petition the state commission for arbitration. *See id.* § 252(b)(1). A final interconnection agreement, whether negotiated or arbitrated, must be reviewed by the state commission in order to determine whether it complies with the Act. *See id.* § 252(e)(1).

On June 6, 2000, the Directors,¹ acting as Arbitrators, accepted the petition for arbitration, appointed themselves as Arbitrators, appointed the General Counsel or his designee to serve as the Pre-Arbitration Officer, and directed the parties to participate in mediation.² The parties participated in a mediation conference on October 11, 2000, thereby resolving a number of issues. On November 13, 2000, the parties submitted the *Tennessee Matrix of Unresolved Issues*, and on April 27, 2001, the parties updated the *Tennessee Matrix of Unresolved Issues*. In an Order entered on May 1, 2001, the Pre-

¹ The terms of the former Directors of the Authority, Chairman Sara Kyle, Director H. Lynn Greer, Jr., and Director Melvin J. Malone, expired on June 30, 2002. Chairman Sara Kyle was reappointed and commenced a new term as a Director of the Authority on July 1, 2002. Pursuant to the requirements of the amended provisions of Tenn. Code Ann. §65-1-204, a three member voting panel consisting of Chairman Sara Kyle, Director Deborah Taylor Tate, and Director Ron Jones was randomly selected and assigned to this docket.

² *See Order Accepting Arbitration, Appointing Arbitrators, Appointing a Pre-Arbitration Officer and Directing Mediation*, p. 1 (Aug. 3, 2000).

Arbitration Officer approved and adopted the April 27, 2001 updated *Tennessee Matrix of Unresolved Issues*.

As a result of the hearing on May 7 and 8, 2001, and negotiations preceding the hearing, the parties resolved all of the issues except for twenty-eight: 6, 8, 18, 28, 34, 35, 36, 37, 40, 42, 45, 46, 47, 48, 51, 52, 55, 56, 61, 62, 63, 64, 67, 68, 80, 95, 100, and 110. Immediately following a regularly scheduled Authority Conference on December 18, 2001, the Arbitrators deliberated the merits of these issues and ordered the parties to file final best offers on Issue Nos. 55, 67, and 95. As directed, the parties filed their final best offers on each of the three outstanding issues and briefs on Issue No. 67 on January 11, 2002. Immediately following the Authority Conference on February 26, 2002, the Arbitrators deliberated Issue Nos. 55, 67, and 95. The Arbitrators entered a *Final Order of Arbitration Award* on April 24, 2002, resolving all remaining issues.

Findings and Conclusions

Based upon the review of the Agreement in this matter and the standards for review set forth in Sections 251 and 252 of the Act, the Directors voted unanimously to approve the Agreement and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The Agreement is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.
- 3) The Agreement is not discriminatory to telecommunications service providers that are not parties thereto.

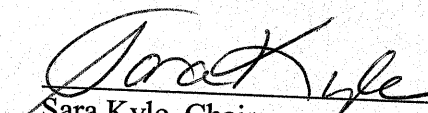
4) Although the Agreement is inconsistent with the Authority's *Interim Order of Arbitration Award* entered on April 3, 2002 and the *Final Order of Arbitration Award* entered on April 24, 2002, approval of the Agreement as a "negotiated interconnection agreement," pursuant to Sections 251 and 252 of the Act, is appropriate in this docket.

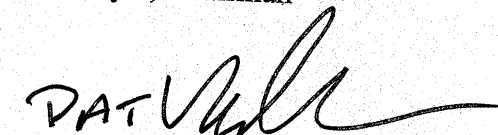
5) No person or entity has sought to intervene in this docket.

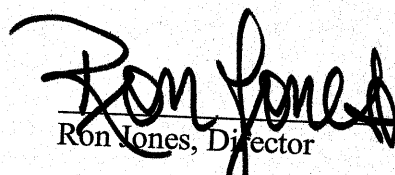
6) The Agreement is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:

The negotiated Interconnection Agreement between MCImetro Access Services, LLC and Brooks Fiber Communications of Tennessee, Inc. and BellSouth Telecommunications, Inc. is approved and is subject to the review of the Authority as provided herein.


Sara Kyle, Chairman


Pat Miller, Director


Ron Jones, Director